

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 JAMES TOBIN and LORI TOBIN,
8 Husband and Wife,

9 Plaintiffs,

10 v.

11 BANK OF AMERICA, N.A., a national
12 association, NEW PENN FINANCIAL
LLP dba SHELLPOINT MORTGAGE
SERVICING, a foreign corporation,
13 and THE BANK OF NEW YORK
MELLON fka THE BANK OF NEW
14 YORK AS TRUSTEE FOR THE
CERTIFICATE HOLDERS OF THE
15 CWALT, INC., ALTERNATIVE
LOAN TRUST 2006-OC1,
16 MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-OC1,

17 Defendants.

C18-1024 TSZ

MINUTE ORDER

18 The following Minute Order is made by direction of the Court, the Honorable
19 Thomas S. Zilly, United States District Judge:

20 (1) Defendants' motion to dismiss, docket no. 14, is DENIED. The Complaint
alleges sufficient facts, if taken as true, to allege a plausible claim to quiet title. *See*
21 *Fujita v. Quality Loan Service Corp.*, No. 16-925, 2016 WL 4430464, *2 (W.D. Wash.
Aug. 22, 2016) (noting that "acceleration occurs upon notice to the debtor that the
22
23

1 creditor intends to declare the entire sum due and payable.”); *Kirsch v. Cranberry Fin.*
2 *LLC*, 178 Wn. App. 1031 at *5 (2013).

3 (2) Defendants’ Requests for Judicial Notice, docket nos. 15 & 23, and
4 Plaintiffs’ Request for Judicial Notice, docket no. 18, all of which seek judicial notice of
5 publicly recorded documents, are GRANTED. Plaintiffs’ Request for Judicial Notice to
6 Surreply, docket no. 26, which seeks notice of non-recorded notices of postponement of
7 trustee sales, is DENIED. The Court may take judicial notice of facts that are not subject
8 to reasonable dispute—including publicly recorded documents—without converting a
9 motion to dismiss into a motion for summary judgment. Fed. R. Evid. 201; *United States*
10 *v. Richie*, 342 F.3d 903, 908-09 (9th Cir. 2003).

11 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
12 record.

13 Dated this 18th day of October, 2018.

14 William M. McCool
15 Clerk

16 s/Karen Dews
17 Deputy Clerk